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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 21ST DAY OF SEPTEMBER 1998

BEFORE

THE HON'BLE MR. JUSTICE M.F. SALDANHA

W.F. 29236/97 c/w. WP.21828/97

BETWEEN

Veerabhadrappe, major
s/of. Goudara Veerappa
r/at. Iggalur village
Attibele Hobli
Anekal Taluk

Petitioner

(By Sri B. Rudragowda, Adv.)

AND

1. The Land Tribunal, Anekal
by its Secretary
The Tahsildar, Anekal
Bangalore Rural Dist.

2. Uthama Karagada Devaru
by its Muzarai Officer
The Tahsildar
Anekal Dist.

3. Linga Reddy s/of. Appaiah
Reddy, dead by his L.Rs:-

- a. Pillakka w/of. Linga Reddy
- b. Chandra Reddy, s/of. Linga Reddy
- c. Krishna Reddy, s/of. Linga Reddy
- d. Ramakka, D/of. Linga Reddy
- e. Chinnammaiah, D/of. Linga Reddy
- f. Bodamma, D/of. Linga Reddy
- g. Appiah Reddy, s/of. Linga Reddy

RESPTS.

h. Futtamma, D/of.Linga Reddy

RESPTS.

all are majors, r/of.Iggalur village
Attibele Hobli, Anekal Taluk

4. Erappa, deceased by his L.Rs:-

A. Sampamma, w/of.late Erappa

B. Kanthamma, w/of. late Somashekhar

both are majors, r/of.Bommasandra
Anekal Tq., Bangalore Rural Dist.

5. Munichikkamma, major
w/of.Samapaiah,
r/of.Bommasandra
Anekal Taluk

6. Vasanna, major
s/of.Ajjappa, r/at.Bommasandra
Attibele Hobli
Anekal Taluk

7. Karnataka Housing Board
Cauvery Bhavan, Bangalore-9
by its Commissioner

8. NarayanaswamyReddy
s/of.Linga Reddy
major, Govt. Servant
r/of.Iggalur Village
Anekal tq.,
Bangalore Dist.

RESPONDENTS

(Sri B.E. Kotian, Addl.G.A. for R.1)

(Sri B. Veeresh B. Patil, R3(a) to (4)

(Sri Kempanna for R.4(a), R.4(b) & R.5

(Sri Shivananda Murthy for R.6)

(Sri M.S. Purushothama Rao, for R.7)

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2. WP.No.21828/97:-

BETWEEN

1. Pillakka
D/of.late Lingareddy
housewife & agriculturist
2. Chandra Reddy
s/of.late Lingareddy
major, agriculturist
3. Krishna Reddy
s/of.Lingareddy
major, agriculturist
4. Ramakka
d/of.late Linga Reddy
major, housewife
5. Chinnammaiah @ Bhadramma
d/of.late Linga Reddy
major, housewife.
6. Doddamma,
d/of.late Lingareddy
major, housewife
7. Appaiah Reddy
s/of.late Lingareddy
major, agriculturist
8. Puttamma @ Laxmamma
d/of.late Lingareddy
9. Narayanaswamy Reddy
s/of.late Lingareddy
major, Govt. servant

all are residents of
Igglur Village,
TQ. Anekal,
Dist. Bangalore

PETITIONERS

(By Sri Veeresh B. Patil, Adv.)



AND

1. The Asst. Commissioner
Bangalore South Sub Dvn
Bangalore

2. Veerabhadrappe
s/of.Gowdara Veerappa
major, agriculturist
r/of.Iggalur Village
Tq. Anekal, Dist. Bangalore

RESPONDENTS

(Sri B.E. Kotian, Addl. G.A. for R.1)

(Sri B. Rudragowda, Adv. for R.2)

Memorandum of writ petitions are filed under Arts.226 & 227 of the Constitution praying that this Court be pleased to quash vide Anx.F dt.26.6.82 by Land Tribunal, Anekal etc.

Writ petitions coming on for hearing this day, the Court made the following:-

COMMON ORDER

W.P. No. 29236/97 effectively challenges the common order of the tribunal dated 26.6.1982 in so far as Survey No.265 is concerned. The tribunal had allotted an area of 1 acre 30 guntas to respondent No.3. The writ petition has been filed in the year 1997 and the petitioner's learned counsel seeks to argue that the petr. was cultivating the lands and that he was not aware according to him of the said order having been passed until acquisition proceedings commenced by

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the Karnataka Housing Board. At that stage according to the petitioner it came to his notice that the respondent No.3 had staked his claim to the lands and the petitioner seeks to contend that he filed an appeal against the mutation entries that had been made consequent to the passing of the tribunal's order. That appeal came to be allowed and the respondent No.3 to this petition has filed WP.21828/97 challenging that order. I do not need to go into that question separately because the order passed in this writ petition will take care of that proceeding. Hence, a common order is passed as far as both the W.Ps. are concerned.

2. The petitioner's learned advocate has vehemently submitted that the tribunal's order is defective in so far as it seeks to abdicate the responsibility of the forum to the Tahsildar by directing that the lands in possession of the respective parties should be allotted to them after a survey. I do not dispute that this challenge is well founded and that the order would normally have to be set aside. That would however not be fair, ^{because} ~~that~~ this is a common order involving

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several parties and there is no dispute with regard to the interse claims of the other parties. Mr.Patil who represents R-3 in this case and the other petitioner in the other writ petition, has brought to my notice one more important aspect namely that the tribunal has recorded a definite finding and has identified the area of 1 acre 30 guntas and therefore, the challenge which may hold good in respect of the remaining survey numbers will not survive as far as Survey No.265 is concerned. There is much substance in this contention because I do appreciate the fact that it is well settled position in law that even if an order is partially defective that it ^{Can} still be salvaged as far as ^{the} rest of it is concerned.

3. Mr.Patil has pointed out to me that there is a delay of 15 years in approaching this Court and he submits that there is no satisfactory explanation for this in the petition and that on this ground the writ petition must be dismissed. The allied submission is that the filing of this writ petition itself is malafide as it is only in order to lay a claim to the compensation amount

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and Mr. Patil submits that if one were to look at the record, that the name of R-3 does appear in the relevant records for the years in question and that consequently, the entire ground of challenge itself is devoid of merits. He has advanced this submission in support of his plea that apart from the aspect of delay that the filing of this writ petition is wanting in bonafides.

4. I must record that petitioner's learned advocate has vehemently disputed this position. The explanation put forward by him was that the petitioner was unaware of the contents of the original order and the usual submission canvassed is that he was a rustic villager. I find it difficult to accept this submission because there are several interconnected issues as far as lands are concerned and there can be no doubt about the fact that the petitioner was aware of the order and did not find fault with it. The truth of the matter is that when the acquisition proceedings commenced, the petitioner suddenly decided to try and lay a claim as far as Survey No. 265 is concerned and contest the claim of the R-3 and that was why the challenge to the mutation entries

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by way of an appeal was undertaken. To my mind, if the petitioner was at all serious about challenging the case on merits that was the point of time when it should have been done but for five ~~long~~ years thereafter, nothing happened until even after the appeal was allowed and only when respondent-3 filed a writ petition before this Court, the present writ petition has been filed after considerable lapse of time. It is nothing more than a counterblast to the earlier writ petition.

5. Despite all these, had there been any real substance in the challenge, I would still have exercised my discretion in granting the petitioner an opportunity and that is the reason why I have heard the two learned advocates rather extensively on merits. I am satisfied that the petitioner has absolutely no case on merits and that the solitary reason why this writ petition has been filed is to try and misuse the powers under Art.226 of the Constitution and litigate in order to try and get the case re-opened at this late stage, hold up the payment of the compensation and try and lay a claim to it. That the

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